

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of:

No. 06F-BD021-BNK

3 **ROY GOLLADAY, JR.**
4 **DBA PDL FINANCIAL SERVICES**
1241 E. BROADWAY, SUITE 23
5 MESA, AZ 85204

CONSENT ORDER

6 Respondent.

7 On December 22, 2005, the Arizona Department of Financial Institutions (“Department”)
8 issued an Amended Notice of Hearing alleging that Respondent had violated Arizona law. Wishing
9 to resolve this matter in lieu of an administrative hearing, Respondent, without admitting or denying
10 the following Findings of Fact and Conclusions of Law, consents to the entry of the following Order.

11 FINDINGS OF FACT

12 1. Respondent, Roy Golladay, Jr. (“Mr. Golladay”), doing business as PDL Financial
13 Services, is an individual licensed to act as a Deferred Presentment Company within the State of
14 Arizona pursuant to A.R.S. §§ 6-1251 *et seq.* The nature of Respondent’s business is that of
15 advertising to and soliciting Arizona residents for deferred presentment services and providing
16 deferred presentment services to such residents within the meaning of A.R.S. § 6-1251(4).

17 2. Respondent has been licensed with the Department as a deferred presentment
18 company, license number DPC 0904948, since August 5, 2002. Respondent has 16 branches; 14 are
19 active.

20 3. On August 15, 2005, the Department examined Respondent’s business affairs and
21 found that Respondent:

22 a. has had an “Order to Cease and Desist; Order of Restitution; Order of Revocation;
23 Order for Administrative Penalties; and Consent to Same” (“the ACC Order”) entered against
24 him by the Arizona Corporation Commission (“ACC”) on June 9, 2005, which is grounds for
25 license denial, suspension, or revocation pursuant to A.R.S. § 6-1258(A)(7). Mr. Golladay
26

1 signed and consented to the ACC Order on May 24, 2005;

- 2 i. from about June 1995 through 2001, Mr. Golladay sold more than two
3 million dollars of unregistered securities to approximately 36 investors,
4 some of whom were clients of his tax preparation business. The promissory
5 notes and investment contracts involved loans to individuals for the
6 purchase and development of real property and to operate Check and Send,
7 Inc., a payday loan company;
- 8 ii. the ACC revoked Mr. Golladay's securities license; imposed a \$10,000.00
9 fine; and ordered the return of \$797,484.00 in restitution to investors;
- 10 iii. Mr. Golladay's conduct subjected him to an order of revocation by the ACC
11 pursuant to A.R.S. § 44-1962(A)(4), (10) and (12):

12 b. is insolvent as defined in A.R.S. § 47-1201(23), which is grounds for denial,
13 suspension, or revocation pursuant to A.R.S. § 1258(A)(3);

- 14 i. as of June 25, 2005, Respondent's personal financial statements showed a
15 net worth of \$688,000.00; however, this does not include the June 9, 2005
16 ACC's aforementioned consent order against Mr. Golladay, which he
17 omitted in the Department's annual license renewal, in the amount of
18 \$797,484.00. This liability reduces Respondent's net worth to
19 (-\$109,484.00);

20 c. failed to maintain the required \$50,000.00 net worth;

21 d. failed to display, in English and Spanish, the fees charged in connection with deferred
22 presentment services;

23 e. took possession of three borrowers' checks that were not dated for either the
24 agreement date or the presentment date;

25 f. entered into eleven (11) agreements that were not signed by both the customer and the
26 licensee and failed to accurately disclose the effective annual percentage rate ("APR") in at least

1 ten (10) deferred presentment transactions;

2 g. failed to have two (2) customer checks made payable to the licensee;

3 h. failed to maintain sufficiently detailed records;

4 i. at least sixteen (16) files were not maintained properly to comply with all
5 applicable statutory and rule requirements because they contained no copy
6 of the customers' checks accepted by Respondent and/or checks were not
7 dated properly;

8 ii. Respondent did not comply with the three-year requirement for maintaining
9 sufficiently detailed books, accounts, and records;

10 i. assessed fees that were more than fifteen percent of the face amount of the check in
11 initial transactions or in extensions;

12 j. assessed fees that were not justly due from customers;

13 i. Respondent disclosed in its "delinquent notifications" to customers, who are
14 in default, that they are liable for twice the amount of a returned check.

15 CONCLUSIONS OF LAW

16 1. Pursuant to A.R.S. §§ 6-122, 6-123, 6-1258, and 6-1251 *et seq.*, the Superintendent
17 has the authority and duty to regulate all persons engaged in the deferred presentment business and
18 with the enforcement of statutes, rules, and regulations relating to deferred presentment companies.

19 2. By the conduct set forth above, Respondent has violated statutes and rules governing
20 deferred presentment companies as follows:

21 a. A.R.S. § 6-1257(3) by failing to display, in English and Spanish, the fees charged in
22 connection with deferred presentment services;

23 b. A.R.S. § 6-1254(C) by failing to maintain the required \$50,000.00 net worth;

24 c. A.R.S. § 6-1259(B)(8) by accepting checks with improper dates;

25 d. A.R.S. § 6-1260(B) by accepting deferred presentment agreements not signed by both
26 the customer and the licensee;

- e. A.R.S. § 6-1260(B) by failing to accurately disclose the annual percentage rates;
- f. A.R.S. § 6-1261(A) by failing to maintain sufficiently detailed records;
- g. A.R.S. § 6-1261(A)(2) by failing to maintain records for three years;
- h. A.R.S. § 6-1259(B)(2) by assessing fees in excess of fifteen percent of the face amount of checks;
- i. A.R.S. §§ 6-1259(B)(2) and 6-1260(F) by assessing fees that were not justly due from customers and by assessing fees that are more than the amount prescribed in A.R.S. Title 6, Chapter 12.1.

3. The violations, set forth above, constitute a violation of applicable statutory rules and orders and grounds for the revocation of Respondent's deferred presentment company license pursuant to A.R.S. § 6-1258.

4. Respondent is insolvent as defined in A.R.S. § 47-1201(23), which is grounds for license denial, suspension, or revocation pursuant to A.R.S. § 6-1258(A)(3).

5. The violations, set forth above, constitute grounds for the Superintendent to order the removal, suspension, or prohibition of Mr. Golladay from further participation in any manner as a director, officer, employee, agent, or other person in the conduct of the affairs of the deferred presentment company, pursuant to A.R.S. § 6-161(A)(6).

6. Pursuant to A.R.S. § 6-132, Respondent's violations of the aforementioned statutes are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day.

ORDER

1. Respondent shall immediately correct all violations set forth in the Findings of Fact and in the Report of Examination. Respondent:

- a. shall display, in English and Spanish, the fees charged in connection with deferred presentment services;
- b. shall maintain the required \$50,000.00 net worth;

- c. shall not accept checks with improper dates;
- d. shall not accept deferred presentment agreements which are not signed by both the customer and the licensee;
- e. shall accurately disclose the annual percentage rates;
- f. shall maintain sufficiently detailed records;
- g. shall maintain records for three years;
- h. shall have checks made payable to the licensee;
- i. shall not assess fees in excess of fifteen percent of the face amount of checks;
- j. shall not assess fees that are not justly due from customers and that are more than the amount prescribed in A.R.S. Title 6, Chapter 12.1.

2. Except for matters set forth herein, immediately upon execution of the Consent Order, Roy Golladay, Jr. shall have no involvement in the affairs of PDL Financial Services. Roy Golladay, Jr. shall not remain as an employee or agent of PDL Financial Services.

3. Within thirty (30) days from execution of this Consent Order, Roy Golladay, Jr. shall sell or otherwise transfer all of his ownership interest in the assets of PDL Financial Services (except for the license) to David Shumway or PDL Financial Services, Inc.

4. Unless otherwise agreed to by the Department, within no less than thirty (30) days after the Department gives notice of its decision regarding the Application for Deferred Presentment License submitted by PDL Financial Services, Inc., PDL Financial Services shall cease to do all business and its deferred presentment license shall be surrendered and delivered to the Department's Licensing Division.

5. Roy Golladay, Jr. shall have no ownership interest in PDL Financial Services, Inc. Further, Roy Golladay, Jr. shall not be an officer, director, employee of PDL Financial Services, Inc.

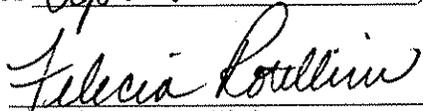
6. Roy Golladay, Jr. shall immediately pay to the Department a civil money penalty in the amount of five thousand dollars (\$5,000.00).

7. The provisions of this Order shall be binding upon Roy Golladay, Jr., his employees,

1 agents and other persons participating in the conduct of the affairs of PDL Financial Services.

2 8. This Order shall become effective upon service, and shall remain effective and
3 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated
4 or set aside.

5 SO ORDERED this 3rd day of April, 2006.

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7 Felecia A. Rotellini
8 Superintendent of Financial Institutions

9 **CONSENT TO ENTRY OF ORDER**

10 1. Respondent acknowledges that he has been served with a copy of the foregoing
11 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, has read the same,
12 is aware of his right to an administrative hearing in this matter, and has waived the same.

13 2. Respondent admits the jurisdiction of the Superintendent and consent to the entry of
14 the foregoing Findings of Fact, Conclusions of Law, and Order.

15 3. Respondent states that no promise of any kind or nature has been made to induce him
16 to consent to the entry of this Order, and that he has done so voluntarily.

17 4. Respondent acknowledges that the acceptance of this Agreement by the
18 Superintendent is solely to settle this matter and does not preclude this Department, any other agency
19 or officer of this state or subdivision thereof from instituting other proceedings as may be
20 appropriate now or in the future.

21 5. Roy Golladay, Jr., doing business as PDL Financial Services, represents that he is
22 authorized to consent to the entry of this Order.

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3 Attorneys for Respondent

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